

**N. KEITH CHAMBERS**  
**EXECUTIVE DIRECTOR**

2. On September 15, 2008, the Department of Human Rights served Respondent with a Notice of Default based upon Respondent's failure to file a verified response to the Charge of Discrimination.

3. On January 6, 2009, the Department of Human Rights filed with the Human Rights Commission, a petition for hearing to determine Complainant's damages due to the default status of Respondent.

4. On January 28, 2009, the Commission entered a default order and granted the Department's petition. The Commission also assigned the matter to the Administrative Law Section for the purpose of conducting a hearing on the issue of damages.

5. On May 13, 2009, an Order was entered which set the matter for a hearing on damages on July 10, 2009. The Order was sent to the last known address of each party.

6. On July 10, 2009, neither party appeared for the hearing on damages.

7. On July 13, 2009, an Order was entered, which directed both parties to file on or before July 24, 2009, a written explanation as to why he or it was unable to attend the public hearing scheduled for July 10, 2009. The Order also cautioned Complainant that should he fail to provide a compelling reason why he was unable to attend the public hearing, he risked the entry of a future order recommending that the default judgment be sustained, and that no damages be awarded. The Order was sent to the last known address of each party.

8. Neither party has filed any pleading in response to the July 13, 2009 Order.

#### **Conclusions of Law**

1. Complainant is an "employee" as that term is defined under the Human Rights Act.

2. Respondent is an "employer" as that term is defined under the Human Rights Act and was subject to the provisions of the Human Rights Act.

3. As a consequence of the parties' failure to appear at the scheduled damages hearing, as well as Complainant's failure to file any explanation in response to the Order of July

13, 2009, Respondent should be held in default on the Charge of Discrimination, but Complainant should receive no damages.

#### **Determination**

The Commission should confirm the finding of liability against Respondent due to the entry of its default order, but award Complainant no damages due to his failure to appear at the damages hearing or to explain his absence.

#### **Discussion**

On January 28, 2009, the Commission entered an Order finding Respondent to be in default on the issue of liability due to its failure either to file a verified response to the Charge of Discrimination or a Request for Review of the Department's notice of default. The Order also transferred the matter to the Administrative Law Section for the purpose of conducting a hearing on the issue of damages. On May 13, 2009, an Order was entered which set the matter for a hearing on damages in Danville, Illinois on July 10, 2009. However, neither Complainant nor Respondent appeared at the hearing. An Order was entered on July 13, 2009, which required the parties to provide the Commission with an explanation for their non-appearance. The July 13, 2009 Order expressly provided that if Complainant failed to provide a compelling reason for his failure to appear, a future order would be issued recommending that the default judgment be sustained against Respondent, but that no damages be awarded to Complainant as a result of his failure to appear at the damages hearing.

Accordingly, because Complainant has failed to appear at the damages hearing and has failed to provide any explanation for his absence from the public hearing, it appears that Complainant has abandoned his claim. In such a situation, the Commission has allowed the default finding to stand, but denied Complainant any damages. See, for example, *Lash and World Travel Agency*, IHRC, ALS No. S11770, June 10, 1991.

**Recommendation**

For all of the above reasons, it is recommended that the January 28, 2009 default order against Respondent be sustained, but that Complainant receive no damages arising out of the default order.

HUMAN RIGHTS COMMISSION

BY: \_\_\_\_\_  
MICHAEL R. ROBINSON  
Administrative Law Judge  
Administrative Law Section

ENTERED THE 28TH DAY OF JANUARY, 2010